IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 8882 of 2005

DATE OF DECISION: 10.10.2006

Kaushalya Devi and others ...Petitioners

Versus

State of Punjab and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. Ashish Grover, Advocate for the petitioners.

Mr. Ashok Aggarwal, Addl. A.G. Punjab,
for respondents No.1 and 2.

J.S. Khehar, J. (oral)

The petitioners were inducted into the service of the respondents as Junior Draftsman. Onward promotion from the post of Junior Draftsman was to the post of Planning Draftsman. All the petitioners were ordered to be promoted/posted as Planning Draftsman by an order dated 14.12.1998. A perusal of the aforesaid order reveals that the promotion of the petitioners was on short term basis, on account of the fact that a number of incumbents of the cadre of Planning Draftsman had been required to discharge their duties by way of deputation outside the cadre. In order to understand the nature and terms of the order, by which the petitioners came to be promoted/posted as Planning Draftsman, it is

considered just and appropriate to extract relevant part thereof hereunder:-

"Following promotions/postings are done in public interest with immediate effect:-

Sr. No.	Name & Designation	Present place of posting	Place of posting after promotion in scale of Rs.5800-9200	Remarks
1.	Tejinder Pal Singh J.D.M.	STP Jalandhar	D.D.T.P.	Against vacant post Against the persons went on deputation promotion on short term basis
2.	Sushil Kumar JDM	DTP Ferozepur	STP Ludhiana	As above
3.	Kaushalya Devi J.D.M.	DTP Bathinda	DTP Bathinda	As above
4.	Bhara Singh JDM	DTP Faridkot	DTP Faridkot	As above
5.	Anita Nayyar JDM J.D.M. (Against reserved)	DTP Hoshiarpur	DTP Amritsar	Against vacant post Against the persons went on deputation promotion on short term basis. Although the name of the employee in the seniority list is of Sr.No.28(21) but promoted on the reserve post.

All the above promotions are being done as some Planing Draftsman of the department have gone on deputation against the vacancies on short term basis. On coming back from deputation, if the post is not available then the junior most employee will be reverted.

2. These orders will be implemented immediately. If the employee does not join on the new posting station within 15

days then it will be assumed that the said employee is not interested in promotion and his order of promotion will be cancelled.

3. Employees of Sr.No.3 and 4 are posted at the same station. Thus, will not be entitled to TA/DA or joining time. Other employees will be entitled to TA/DA joining time as per rules."

It is not a matter of dispute that the petitioners continued to discharge their duties as Planning Draftsman from the date of their appointment as such i.e. 14.12.1998 till they were eventually reverted by an order dated 16.5.2005 (Annexure P2). The instant order of reversion is subject matter of challenge at the hands of the petitioners through this writ petition.

A perusal of the impugned order reveals, that the reversion of the petitioners was based on the fact that those who were earlier sent on deputation had returned back to occupy their posts, and consequentially, in terms of the order of promotion/posting, extracted herein above, the petitioners were required to be reverted. As against the name of petitioner No.1 Kaushalya Devi, it is asserted in the impugned order that Shri Iqbal Singh, Planning Draftsman, had reverted back from deputation on 3.1.2000, and as such, petitioner No.1 Kaushalya Devi was ordered to be reverted with effect from 4.1.2000. As against the name of petitioner No.2 Tejinder Pal Singh, it is mentioned that Paramjit Singh, Planning Draftsman, came back from deputation on 19.4.2002, and as such, he was ordered to be reverted with effect from 18.4.2002. As against the name of petitioner No.3 Sushil Kumar, it is mentioned that Adab Lal, Planning Draftsman, came back to the

parent department on 24.4.2000, and as such, Sushil Kumar was ordered to be reverted with effect from 25.4.2000. And likewise, as against the name of petitioner No.4 Ms. Anita Nayyar, it is mentioned that Rajinder Kumar, Planning Draftsman, had reverted back to the parent department on 7.6.1999 and consequently, he was ordered to be reverted with effect from 8.6.1999.

While impugning the order of reversion, the first contention of the learned counsel for the petitioners is that the impugned order of reversion dated 16.5.2005 has adverse civil consequences against the petitioners, and as such, before such an order could have been passed, it was imperative for the respondents to follow the rules of natural justice, namely, to inform the petitioners the reasons which had weighed with the authorities in reverting them, and also afforded them an opportunity to respond to the said notice. Since the aforesaid procedure had not been adopted by the authorities, the action taken by the Chief Town Planner, Punjab, through the impugned order dated 16.5.2005 is stated to be arbitrary, and as such, violative of the provisions of Article 14 of the Constitution of India.

Having examined the issue projected at the hands of the petitioners, as has been noticed in the foregoing paragraph, we are of the view that in the facts and circumstances of the instant case, it was not necessary for the authorities to follow the rules of natural justice before ordering reversion of the petitioners. The order of their promotion/posting expressly ordains that they were being promoted so as to occupy the vacancies created by persons holding the posts of Planning Draftsman, who had been sent on deputation, and that, as and when the deputationists reverted back from their posting on deputation, the junior most employees out of those promoted would be reverted. Since it is not the case of the

petitioners that the order of reversion violates the principle of seniority, we are of the view that the order of reversion expressly flows from the conditions stipulated in the order of promotion/posting dated 14.12.1998, extracted hereinabove, and as such, in the peculiar facts and circumstances of this case, it was not necessary for the respondents to follow the rules of natural justice.

The second contention of the learned counsel for the petitioners is that the impugned order of reversion was passed on 16.5.2005, vide which petitioner No.1 was reverted retrospectively with effect from 4.1.2000, petitioner No.2 was likewise reverted retrospectively with effect from 18.4.2002 and petitioner No.3 was also reverted retrospectively with effect from 25.4.2000. The worst hit was petitioner No.4 who was reverted retrospectively with effect from 8.6.1999. While conceding that those who were responsible for dislodging the petitioners, came back to the parent department and assumed the charge of the post of Planning Draftsman with effect from the dates depicted in the instant order hereinabove, it is vehemently contended that all the petitioners continued to discharge the duties of the post of Planning Draftsman till the order of reversion dated 16.5.2005 was passed. It is, therefore, submitted that the respondents having required the petitioners to discharge the duties of the post of Planning Draftsman, it was incumbent on the respondents to pay the petitioners for the duties and responsibilities of the post against which they continued to work till 16.5.2005. Since it is not a matter of dispute even at the hands of the learned counsel for the respondents, that the petitioners factually discharged the duties against the post of Planning Draftsman till the order of reversion dated 16.5.2005 was passed, we are of the view that

the petitioners must be allowed pay and allowances of the post of Planning Draftsman till their reversion by order dated 16.5.2005. To the aforesaid limited extent, therefore, the instant writ petition stands allowed.

Disposed of accordingly.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

October 10, 2006.
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